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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Petition of Southwestern Bell Telephone
Company, Pacific Bell, and Nevada Bell for
Relief from Regulation Pursuant to Section
706 of the Telecommunications Act of 1996
and 47 U.S.C. § 160 for ADSL Infrastructure
and Services

CC Docket No. 98-91

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COMMENTS OF THE
DSL ACCESS TELECOMMUNICATIONS ALLIANCE ("DATA")

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**COMMENTS OF
DSL ACCESS TELECOMMUNICATIONS ALLIANCE ("DATA")**

The DSL Access Telecommunications Alliance ("DATA"), by its attorneys, respectfully submits these comments on the petition by Southwestern Bell, Pacific Bell and Nevada Bell (collectively "SBC") for broad forbearance relief under section 706 of the Telecommunications Act of 1996 for SBC's contemplated digital subscriber line ("DSL") services.¹ DATA believes that SBC's request is a thinly-veiled effort to squelch competitive entry for the high-speed, broadband data services on which the continued explosive growth of electronic commerce and enterprise networking in America depends.

DATA is a group of new data service providers seeking to ensure and preserve competition in DSL services. Member companies include Rhythms NetConnections, Inc. ("Rhythms"), NorthPoint Communications, Inc. ("NorthPoint"), and FirstWorld Communications, Inc. ("FirstWorld").

¹ Public Notice, DA 98-1111, Common Carrier Bureau, Federal Communications Commission (June 11, 1998). Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell, Petition for Relief from Regulation Pursuant to Section 706 of the Telecommunications Act of 1996 and 47 U.S.C. § 160 for ADSL Infrastructure and Service, CC Docket No. 98-91 (filed June 9, 1998) ("SBC Petition").

Rhythms is a comprehensive networking solutions company that provides high speed data communications that combine high speed local access through the deployment of DSL services, with capacity balanced local and wide area networks. Rhythms entered commercial services in San Diego on April 1, 1998 after a two-month test period and is currently rolling out services in California's Bay Area as well as Los Angeles and Orange County, with plans to expand to thirty nationwide markets over the next three years.

NorthPoint is a data CLEC based in San Francisco that began operation in June, 1997. NorthPoint has been providing DSL service in the San Francisco Bay Area for several months and will soon commence service in Los Angeles, Boston and New York. It is certificated, or pending certification, as a CLEC in eighteen states, and expects to be providing service within the next two years in more than twenty-seven major metropolitan areas.

FirstWorld is a facilities-based CLEC developing and operating technologically advanced, fiber-based broadband networks in regional "clusters," initially in Southern California and eventually in other markets. FirstWorld has designed business-oriented solutions for integrated voice, data and Internet services, including virtual LANs and e-commerce, that rely on state-of-the-art customer connections to the network, including dedicated DSL services as well as a variety of other interconnection arrangements. FirstWorld's strategy and network architecture are designed to exploit, among other things, the steadily decreasing cost of high bandwidth connectivity and the increasing customer demand for high-speed, broadband telecommunications and enhanced services.

Each of these companies is providing, or is seeking to provide, DSL-based services in competition with the incumbent local exchange carriers ("ILECs") around the nation, including SBC. Consequently, DATA is extraordinarily interested in the issues presented by SBC's Petition, and can present the Commission with an informed perspective on this proposal. DATA's comments focus on the unique issues raised by SBC's petition. Rather than repeat the arguments raised in our comments in the related 706 proceedings, copies of those comments and reply comments are attached to this pleading and incorporated by reference herein.

INTRODUCTION

In its petition, SBC requests that the Commission grant it four-fold forbearance relief under section 706. Specifically, SBC requests that the Commission forbear from imposing (a) any unbundling obligation applicable to ADSL facilities (except loops or other facilities that SBC determines are not required to be deployed for ADSL), (b) any obligation to provide a wholesale discount on ADSL service, (c) dominant treatment of ADSL service, and (d) any section 252(i) obligation applicable to agreements or arrangements SBC determines are inconsistent with the relief requested. SBC Petition at 5-6, 37.

Clearly, SBC's petition raises, indeed highlights, many of the same concerns identified by DATA in its comments on the earlier RBOC 706 petitions. As DATA emphasized in its opening and reply arguments filed in the related dockets considering 706 petitions filed by Bell Atlantic, Ameritech and US West,² granting relief for RBOCs

² Comments of the DSL Access Telecommunications Alliance, CC Docket Nos. 98-11, 98-26, 98-32 (filed April 6, 1998) ("DATA April Comments") (appended hereto as Attachment 1); Reply Comments of the DSL Access Telecommunications Alliance, CC Docket Nos. 98-11, 98-26, 98-32 (filed May 6, 1998) ("DATA

pursuant to section 706 is premature at best. DATA April Comments at 26-29; DATA May Reply Comments at 19-23. At this critical juncture in the development of data competition, granting the requested relief would impede—not advance—competition. It is the actions and inactions of the ILECs that delay, not enhance, competition. DATA April Comments at 9-14; DATA May Reply Comments at 2-13. Characteristically, like the other RBOCs, SBC fails to present *any* evidence that the relief it seeks is necessary to further deployment of advanced telecommunications services. DATA May Reply Comments at 2-6.

Vigorous data services competition depends on nondiscriminatory access to loops and collocation. DATA April Comments at 7-9; DATA May Reply Comments at 2-4. As DATA and other commenters emphasized, the best route to achieving rapid deployment of advanced telecommunications services to all Americans is for the Commission to vigorously enforce the loop unbundling and collocation and other pro-competition requirements of sections 251/271 of the Telecommunications Act, as well as the antitrust laws. DATA April Comments at 17-22; DATA May Reply Comments at 6-13; 18-19. In addition, the Commission should take other procompetitive steps, such as unbundling of DSL loops and subjecting ILEC retail entities to obtain facilities and collocation on a first-come, first-served regime, to ensure that the full extent of the law is realized. DATA April Comments at 25-26.³

May Reply Comments”) (appended hereto as Attachment 2). These Comments and Reply Comments are hereby made a part of the instant comments.

³ In their comments on the three earlier related RBOC 706 petitions, several carriers, including those in the DATA coalition, identified serious competitive concerns and consequences of SBC’s collocation practices. *See, e.g.*, DATA April Comments at 9-14, 17-19; DATA May Reply Comments at 8-12; Comments of Covad, CC Docket Nos. 98-11, 98-26, 98-32, at 13-18. Yet, SBC ignores these issues and

The SBC petition, however, is even more problematic than those of the other ILECs. While claiming that it will provide competing providers with access to necessary loops for ADSL, SBC Petition at 17-18, SBC details a highly anticompetitive, three-step checklist that must be met prior to provisioning such loops to ADSL competitors. SBC Petition at 18-20. The nature and scope of these “checks” would enable SBC to effectively thwart not only potential new competitors—by unilaterally imposing unnecessary, technology-specific conditions on the provision of loops to DSL competitors—but also severely threaten existing competitors that have already deployed DSL in its region.

Thus, under the guise of “spectrum management,” SBC proposes to unilaterally impose restrictions on loop availability that would favor its own, unique DSL technology selection over alternative technologies that have been widely deployed by its competitors.

SBC’s proposals to unilaterally impose anticompetitive loop screening criteria underscore the need for this Commission to conduct a comprehensive review of advanced telecommunications issues in order to avoid creating a Byzantine patchwork of regulation through 706 procedures. DATA May Reply Comments at 19-23. The Commission thus should exercise its plenary interstate jurisdiction to deal with the critical spectrum management issues that are raised by SBC’s petition. It is wholly inappropriate for the Commission to address these issues in the context of SBC’s, or any other RBOC’s, 706 petition. DATA April Comments at 26-29; DATA May Reply

instead boldly indicates that it has no intention of revising its collocation practices. SBC Petition at 20-21; *see also* SBC Petition, Att. 2 at 9-12.

Comments at 19-23. Further, while SBC contends that it will honor existing inconsistent interconnection agreements, in reality it only intends to grandfather inconsistent agreements to existing arrangements that may be in effect as of the release date of an FCC order in this docket. SBC Petition at 33. This is also anticompetitive and should be denied.

DISCUSSION

I. RBOCS MUST NOT BE PERMITTED TO CONTROL ACCESS TO KEY BOTTLENECK FACILITIES SUCH AS LOOPS THROUGH APPLICATION OF UNILATERAL SCREENING CRITERIA

SBC argues that its numerous DSL competitors will be able to obtain the necessary unbundled network elements and collocation to provide competing DSL services. SBC Petition at ii, 5, 17-18. While SBC discusses numerous DSL competitors, SBC Petition at 16-17, it fails to acknowledge—as several Commissioners have already noted publicly—that their ability to compete is wholly contingent on SBC’s nondiscriminatory provision of loop and collocation facilities. DATA April Comments at 7-14; DATA May Reply Comments at 6-19.⁴ Unfortunately, as was true of the RBOCs filing earlier 706 petitions, SBC’s proposal for making unbundled DSL compatible loops available only pays lip service to “availability.”⁵ The broad three-pronged checklist outlined by SBC would enable it to restrict the deployment by competing providers of DSL technologies that differ from the Alcatel system SBC

⁴ Remarks of Commissioner Susan Ness before the Computer and Communications Industry Association’s 1998 Caucus, To Have and Have Not: Advanced Telecommunications Technologies (June 9, 1998); Remarks of Commissioner Gloria Tristani before the US West Regional Oversight Committee, Section 706: An Opportunity for Broadband Competition Policy (April 27, 1998); Remarks by Chairman William Kennard to USTA’s Inside Washington Telecom (April 27, 1998).

⁵ Consequently, SBC’s proposal for nondominant treatment of its planned retail roll-out of ADSL is particularly troubling in light of SBC’s continued control of the local loop bottleneck and its ability to

intends to use, and even of those providers who deploy the same technology. Thus, SBC has erected precisely the types of anticompetitive barriers that several Commissioners have publicly questioned.

SBC details a three-step process that it insists must be met before it will comply with its statutory obligation under section 251(c) to provide carriers with unbundled local loops. SBC Petition at 18-20. SBC uses a software system called "WebQual" to check facility availability, loop qualification and spectrum management. SBC Petition at 18. If a loop fails either the "facility availability" or "spectrum management" checks SBC will refuse to make it available for use with ADSL by SBC's competitors. SBC Petition at 17-19. At the same time, of course, SBC's *own* use of those loops for ADSL services would *not* be prohibited because its guidelines are specifically tailored to SBC's chosen technology, and SBC always gives itself priority in any loop conflict.

Facilities availability: SBC first will run a check to determine whether it has in place "the requisite copper loop to the requested physical location." SBC Petition at 18. However, SBC goes on to say that it will check for a loop without load coils or any excessive bridged tap or use of pair gain systems, such as DLC. *Id.* SBC states that some of these conditions will "summarily disqualify the loop for ADSL capability," SBC Petition at 18, but provides no further elaboration.

As DATA and others have indicated, load coils, bridge taps and use of loop carrier systems raise technical issues for deployment of DSL services, but may not be

leverage that control to seriously impact the services provided both currently and in the future by its competitors. SBC Petition at 21.

used by ILECs as a pretext for denying a carrier the ability to provide DSL services.⁶ DATA April Comments at 13-14. Indeed, as technology in this area continues to rapidly advance, it is likely that competitors, using technology that is different from the Alcatel equipment SBC has chosen to deploy, will be able to address these conditions directly. Accordingly, SBC should not be permitted to unilaterally determine whether a particular loop is “suitable,” and further leverage its gatekeeper control of local loop availability. Instead, loops should be made available for use by competing carriers without any SBC determination of “suitability” for a particular purpose. Such a determination is for the competitor to make once the facilities are obtained.

Loop qualification: SBC next checks the loop length. SBC Petition at 18. But, SBC’s “loop qualification” check is not as benign as it first appears. This requirement enables SBC to determine, unilaterally, whether a loop is “too long.” Indeed, SBC has already used loop length as a roadblock to provision of loops for DSL carriers. Citing an undisclosed “study” that it refuses to provide, SBC unilaterally determined that loops over 14,000 feet *might* cause interference problems⁷ and stopped filling a competitor’s orders for such loops for over two weeks. SBC refused to share the underlying data that would enable the competitor to render its own assessment with respect to the loops. This is a clear example of how SBC can and does use its bottleneck leverage over the essential local loop facilities to impose delay or denial to its competitors. Thus, far from being a benign requirement, SBC’s “loop qualification” check is perniciously anticompetitive.

⁶ While many ILECs will currently remove load coils and some will move potential DSL customers from DLCs onto available copper loops, these accommodations will no doubt disappear if SBC’s petition is granted.

Where a loop is of a length that SBC determines is suitable for ADSL, this check is met and carriers will be able to obtain the loop for ADSL. *Id.* Where the loop length is longer than SBC determines is suitable, carriers may still obtain the loop, but without any guarantees from SBC and only if the loop complies with the other two checklist items. *Id.* at 19. The experience of competing data service providers indicates that SBC frequently reports loop lengths incorrectly and thereby refuses a competitor's loop request. Once a carrier elects to obtain the loop anyway, it often discovers that loops lengths are perfectly acceptable and have simply been overstated by SBC.

Mandatory Spectrum Guidelines: Under the SBC paradigm, SBC will only provide loops to carriers "subject to carrier observance with mandatory power limitations that are part of spectrum management" such that "disturbers may disqualify a loop" ("other digital services within the same binder or adjacent binder that cause interference"). SBC Petition at 19. While such technical specifications and limitations sound benign and even beneficial, they are perhaps the most injurious to competition because they enable the ILEC unilaterally, indiscriminately and without effective checks to control the technology of its DSL competitors. In addition to being adverse to the competitive goals of section 706, these requirements violate section 251(c)(3)'s requirement of nondiscriminatory access to unbundled loops because they dictate what technology can be used on the loops. 47 U.S.C. § 251(c)(3).

Ironically, the Alcatel ADSL technology used by SBC is the chief "disturber." The Alcatel technology tends to cause significantly greater spectrum interference than

⁷ SBC's refusal to let anyone see this "study" reinforces many experts' conclusions that the study is flawed.

alternative DSL technologies being used by SBC's competitors. The unique characteristics of the Alcatel technology tend to "disturb" other DSL lines, while the DSL technology most commonly deployed by SBC's competitors does not cause *any* disturbance. Thus, the Alcatel technology being deployed by SBC is by no means the only, or even preferable, ADSL technology. Accordingly, by enshrining, through unilateral action, the Alcatel spectrum characteristics into an "availability check," SBC's spectrum guidelines are by no means technology neutral.

Moreover, spectrum guidelines are already under development by industry forums. While industry standards have been adopted for some technologies, other standards are still under development. Yet, SBC's spectrum guidelines, as they have been circulated to competitors operating in Pacific Bell's territory, do not match existing industry standards and guidelines and fail to account for on-going industry activity to develop further guidelines for other technology types. This becomes a serious problem for SBC's competitors because SBC can effectively prevent entry by claiming spectrum management disturbance.

As Commissioner Tristani noted:

The FCC should try to make sure that these types of loop management issues do not become entry barriers for competitors. In general, there's no question that the more a competitor relies on the incumbent, the more opportunity there is for anticompetitive behavior by the incumbent. Loop management strikes me as an area where competitors will be fairly reliant on the incumbent. Thus I think the FCC should evaluate whether some sort of guidance may be helpful in this area.⁸

⁸ Remarks of Commissioner Gloria Tristani before the US West Regional Oversight Committee, Section 706: An Opportunity for Broadband Competition Policy (April 27, 1998).

Thus, while DATA agrees that provision of DSL services can raise spectrum management issues, such issues should be resolved through a collaborative process in an open industry forum that does not artificially advantage or disadvantage any carrier or technology relative to another. DATA May Reply Comments at 14. This approach is fully consistent with Commissioner Ness's view that "no single vendor control[] this vital technology" and any "necessary standards are developed and agreed to using open processes in which all parties can participate."⁹ Cooperative resolution of spectrum issues will ensure that ILECs such as SBC are precluded from limiting consumer choice by developing restrictive requirements that do not comport with open, industry based consensus standards.

It is critical that the Commission exercise its plenary jurisdiction over these spectrum management issues. The Commission has clear authority to exert such jurisdiction. First, it is well established that spectrum issues fall within the FCC's purview as a general matter and have historically be handled at the federal level to ensure national uniformity. Second, the use of such spectrum issues as a condition for availability of unbundled loops falls squarely within the Commission's jurisdiction to interpret interconnection and unbundling issues under the 1996 Act and to decide how network elements must be made available to competing providers. Finally, the clear competitive significance of using spectrum issues as a "barrier to entry" likewise falls within the Commission's 1996 Act implementation and general public interest authority.

⁹ Remarks of Commissioner Susan Ness before the Computer and Communications Industry Association's 1998 Caucus, To have and Have Not: Advanced Telecommunications Technologies (June 9, 1998).

In sum, each of SBC's three "checks" enables the company to leverage its local monopoly over loops to control the services, customers and deployment of competing technologies that may be offered by its competitors. Thus, SBC's petition attempts to obtain, through regulatory "forbearance," the ability to impose unilateral, anticompetitive technical requirements on all providers of DSL services, and to simply refuse to make loops available to its data competitors. This is contrary to the purposes of entry and innovation sought by Congress under the Act as a whole and section 706, as well as the unbundling requirements of section 251(c)(3). SBC seeks to limit the competitive deployment of advanced telecommunications to all Americans, contrary to the very point of section 706. The day should be long past when any one carrier—particularly one with monopoly power—can unilaterally impose technology and competitive entry decisions on competitors, markets and consumers.

II. FORBEARANCE FROM SECTION 252(i) REQUIREMENTS WOULD ENABLE SBC TO LEVERAGE ITS LOCAL MONOPOLY BOTTLENECK AGAINST EXISTING AND POTENTIAL COMPETITORS

SBC adds a new twist to the forbearance requests raised by other LECs by proposing to exempt itself from the Act's 252(i), or "MFN," requirements. Section 252(i) of the Act requires LECs to:

make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement. 47 U.S.C. § 252(i).

Because SBC is "concerned that the MFN obligation could be used by carriers to avoid [SBC's proposed] FCC order," it requests the Commission to forebear from applying this provision to any interconnection arrangement post-dating a Commission order embodying SBC's proposal. SBC Petition at 33. In fact, however, SBC's request merely

demonstrates SBC's continued resistance to competition in its region and reluctance to comply with the requirements of the Act and FCC rules.

Granting SBC MFN forbearance will substantially delay and ultimately impair ADSL competition. The Act's MFN requirement is a regulatory cornerstone required for true telecommunications competition, and must not be avoided. Commission forbearance from the requirements of section 252(i) to SBC DSL-related agreements or provisions in already operational CLEC interconnection agreements would impair three critical aspects of competition: (1) the ability of carriers to develop national DSL technology network solutions, (2) timely entrance of new competitors into the marketplace, and (3) the ability of existing and future carriers to rely on the terms of their agreements to obtain consistent treatment.

A. SBC's Proposal Would Eliminate the Possibility of National DSL Solutions

If adopted, the SBC proposal to forbear from the statutory MFN obligation under section 251(i) would enable SBC to single-handedly prevent deployment of a uniform national data network by any carrier. For example, SBC has chosen to deploy the Alcatel system, which has been rejected in other regions and by most competing carriers for sound reasons, not the least of which are the interference characteristics of the system.

If every RBOC were able to adopt the technology or spectrum screens that favored their chosen technology over all others, and were simultaneously allowed to unilaterally refuse to provide loop arrangements on the basis of unilateral "technology" screens, that conflict with their chosen technology, competing carriers would be forced

to employ different technical solutions for each LEC region, if they are permitted to have unbundled loops at all.

In each and every region, distinct and inconsistent rules would apply to DSL providers, eliminating any available national efficiencies and allowing the LECs to erect yet another barrier to entry. Worse, all consumers would be forced to adopt the same technology deployed by the ILEC, one of the defining hallmarks of monopoly that the 1996 Act was intended to eliminate.

B. Forbearance from the Act's MFN Requirements Would Raise Costly Barriers to Entry Into the DSL Marketplace

The provisioning of any telecommunications service that relies upon access to LEC-owned elements, such as DSL, cannot begin until completion of an interconnection agreement with an incumbent LEC. Section 252(i) has saved literally thousands of hours in negotiation time by eliminating the need for new carriers to “reinvent the wheel” each and every time they sit down across the table from a LEC. As a result, new entrants are able to devote their precious time and limited resources to developing business plans, attracting customers, and building networks instead of engaging in repetitious and duplicative interconnection battles over key provisions in the LEC agreements. Even with the benefit of section 252(i), interconnection agreements currently take months to sign and execute. LECs have no incentive to increase competition in their regions. Eliminating the MFN requirement would only serve to exacerbate what is already a painfully slow and costly process.

C. Competitive Investments Rely on
the Act's MFN Requirements

Another costly result of SBC's proposal would be the impact on competing carriers' existing networks and plans for future network development. DSL providers, such as the companies in DATA, have already negotiated interconnection agreements around the nation that permit deployment of a range of DSL technologies and provide for a variety of loop arrangements. They have invested in technological solutions that rely upon the continued viability of the terms, conditions and implementation solutions established under those interconnection agreements. SBC, however, now seeks to be relieved of any requirement to continue to make available such arrangements. Specifically, SBC's proposal would mean that, to the extent SBC, or presumably any other LEC, unilaterally determines that a particular DSL deployment "is inconsistent with the relief provided pursuant to [SBC's] Petition," the ILEC would no longer be required to accept that technology as part of a pending agreement, even if an existing agreement in that region contained the very same loop configuration.¹⁰

Because existing competitors providing DSL services have relied on the terms of their existing agreements in developing their business strategies, SBC should not now be permitted to unilaterally vitiate those agreements. By refusing to extend all existing arrangements to new agreements, SBC would be in a position to torpedo the hard-fought deals made between CLECs and the ILEC upon which entire business plans have been built and significant investments made.

¹⁰ "[T]he SBL LECs would honor effective arrangements existing at the time of the release of the FCC's decision *until* their expiration." SBC Petition at 33 (emphasis supplied).

An even more dramatic implication of SBC's proposition is that in renewing a contract a competing carrier might not be able to obtain the same set of elements it obtained in its original agreement. Should competitors find themselves unable to renew their existing agreements, which all expire over the next few years, or rely on agreements made by others, all network build-out achieved up to that point will be at risk. Simply put, certain DSL hardware solutions require certain loop arrangements. A DSL provider's inability to continue contracting for its preferred loop arrangement could devastate that provider's ability to compete.

Unacceptably, under SBC's proposed rule, SBC would not be required to make a substantive showing that loop arrangements are *actually* causing insoluble interference problems before deciding to stop allowing them in their interconnection agreements. Thus, SBC could "change the rules" at any time, causing considerable expense and delay for its competition. In other words, the MFN forbearance would exacerbate LECs "gatekeeper" role and allow it to affect existing as well as future contracts. Such a proposal does not take seriously the well established necessity for regulatory protection from the anticompetitive practices of a monopolist in control of essential facilities.

CONCLUSION

The Commission must continue to apply unbundling, collocation, 252(i) and other obligations to SBC and other ILECs, and deny SBC's petition in its entirety. In order to truly advance the goals of Section 706 in facilitating widespread deployment of advanced telecommunications services, this Commission should be enforcing, not gutting, existing ILEC obligations with regard to DSL service. Loop unbundling and collocation availability are crucial requirements under section 251(c)(3) and this

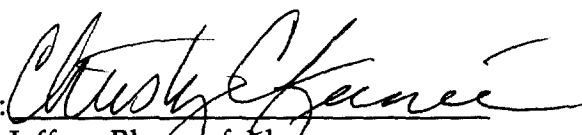
Commission's orders. At a minimum, if the Commission does not deny SBC's requested relief, the Commission should open a Notice of Inquiry with respect to the issues raised in all the RBOC 706 petitions, including SBC's petition.

Respectfully submitted,

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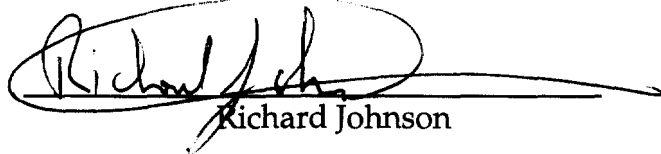
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Dated: June 24, 1998

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Petition of Bell Atlantic Corporation for
Relief from Barriers to Deployment of
Advanced Telecommunications Services

CC Docket No. 98-11

Petition of US WEST Communications, Inc.
for Relief from Barriers to
Deployment of Advanced
Telecommunications Services

CC Docket No. 98-26

Petition of Ameritech Corporation to
Remove Barriers to Investment in
Advanced Telecommunications Services

CC Docket No. 98-32

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Petition of Ameritech Corporation to Remove Barriers to Investment in Advanced Telecommunications Services	CC Docket No. 98-32

The DSL Access Telecommunications Alliance ("DATA"), by its attorneys, respectfully submits these Comments in the above-referenced proceedings pursuant to the Order, DA 98-513, issued by the Common Carrier Bureau of the Federal Communications Commission ("FCC" or "Commission") on March 16, 1998.

The DSL Access Telecommunications Alliance ("DATA") is a coalition of data service providers seeking to ensure and preserve competition in digital subscriber line ("DSL") services. Member companies include Rhythms NetConnections, Inc. ("Rhythms"), and NorthPoint Communications, Inc. ("NorthPoint").

Rhythms is a comprehensive networking solutions company that provides high speed data communications that combine high speed local access through the deployment of DSL services, with capacity balanced local and wide area networks. Rhythms entered commercial services in San Diego on April 1, 1998 after a two-month test period and is currently rolling out services in California's Bay Area as well as Los Angeles and Orange County, with plans to expand to thirty nationwide markets over the next three years.

NorthPoint is a data CLEC out of San Francisco that began operation in June, 1997. NorthPoint has been providing DSL service in the San Francisco Bay Area for several months and will soon commence service in Los Angeles, Boston and New York. It is certificated, or pending certification, as a CLEC in sixteen states, soon to be twenty, and expects to be providing service within the next two years in more than twenty-five major metropolitan areas.

Each of these companies is providing, or is seeking to provide, DSL services in competition with the incumbent local exchange carriers ("ILECs") around the nation, including Bell Atlantic ("BA"), Ameritech, and US West (collectively "Petitioners" or "RBOCs"). Consequently, DATA is extraordinarily interested in the issues presented by the RBOCs' Petitions, and can present the Commission with a unique perspective on these proposals.

INTRODUCTION

This Commission has a long and rich tradition—dating back almost forty years—of opening markets to competition. Since the Commission issued its local